D.B. CIVIL SPECIAL APPEAL(W)NO.646/2007

The State of Rajasthan
Vs.
Smt. Sharda Devi & Anr.

Date of Judgment :: 27-07-2007

HON'BLE THE ACTING CHIEF JUSTICE SHRI J.M. PANCHAL
HON'BLE SHRI JUSTICE BHANWAROO KHAN

Mr. Shyam Ladhrecha, Addl.G.A.
Mr. Gajendra Sharma, for
Mr. Vinod Purohit, for the respondent no.1.

PER HON'BLE THE ACTING CHIEF JUSTICE J.M. PANCHAL

By filing the instant appeal under Section 18 of the Rajasthan High Court Ordinance Act, 1949 the appellant has challenged legality of judgment dated April 4, 2007 rendered by the learned Single Judge in S.B. Civil Writ Petition no.4576/2004 by which the appellant is directed to treat the respondent as a full time Class Iv employee and allow her minimum of the regular pay scale admissible to the post of Class IV employee w.e.f. September 24, 2001.

The respondent entered in the services of Medical and Health Department on January 10, 1989. She was discharging duties for nine hours in a day, However she was paid wages of Rs.100/- per month. As the pay admissible to regular Class IV employee was not granted to her, she raised an industrial dispute which was referred to the Labour Court for

adjudication.

Before the Labour Court, the respondent herself produced certain documents which indicated that she was engaged on part time basis on fixed pay but her case that those documents were not considered by the Labour Court and her reference was rejected on the ground that she was engaged on part time basis and not entitled to regular scale admissible to a class IV employee.

Feeling aggrieved, the respondent approached this Court by way of filing S.B. Civil Writ Petition no.4576/2004. The learned Single Judge has set aside the award of the Labour Court by holding that it is perverse and granted the relief to the respondent referred to above, which has given rise to the instant appeal.

This Court has heard Mr. Shyam Ladhrecha, learned Additional Government Advocate for the appellant and Mr. Sanjeet Purohit who appears on caveat for the respondent.

The conclusion drawn by the learned Single Judge after examining the award is as under:

> "From examination of the award impugned it is apparent that the labour court treated the petitioner a part-time employee on basis of the documents produced by the workman with a specific statement that in

> those documents she was wrongly shown as a part-time employee. As a matter of fact those documents were placed under cloud by the workman. While impugning those documents the workman in her statements, in most specific terms, stated that she worked for nine hours with the employer and she also discharged all the duties pertaining to a class IV employee. No evidence was available on record to controvert whatever the workman said. The finding given by the labour court is solely based on the documents produced by the workman and validity of those documents was challenged by the workman. The labour Court without examining validity of those documents by relying upon them gave a finding that the workman was employed on part-time basis. I am of the considered opinion that without examining validity of those documents the labour court should have not based its findings on them, specially in the circumstances that no evidence was adduced by the employer and the workman in specific terms stated that she was working for complete nine hours and was discharging the duties of a class IV employee. I do not find any just and valid reason available to the labour court to disbelieve the statement given by the workman.

The record indicates that the documents produced by the workman were challenged by her but the said challenge was never taken into consideration by the labour court. It is relevant o notice that no evidence was produced by the appellant to controvert what was stated by the workman. Therefore on the basis of documents produced by her, the workman could not have been non-suited without considering her claim that those documents did not reflect correct states of affairs.

On the facts and in the circumstances of the case, this Court is of the view that the conclusions drawn by the learned Single Judge which have been reproduced earlier are eminently just. Learned counsel for the appellant has failed to persuade this Court to take a view different than the one taken by the learned Single Judge on appreciation of evidence. Therefore, the appeal which lacks merits, deserves summarily dismissal.

For the foregoing reasons, the appeal fails and is summarily dismissed.

[BHANWAROO KHAN],J. [J.M.PANCHAL],ACTG.CJ.

Praveen